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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: FREEDOM OF EXPRESSION

Written statement* submitted by the Asian Legal Resource Centre (ALRC), a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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ENG

Freedom of expression in Asia

1. In Asia, freedom of expression is widely suppressed under the pretexts of national security and public order, defamation, blasphemy, and—since September 11—'anti-terrorism'. Each year, many media workers and people who have voiced opinions different from the authorities have been detained, tortured, disappeared or killed.

2. A major source of the threat to freedom of expression is the abuse of national security laws. In many Asian countries, these laws have provided a wide range of powers to governments to suppress dissent. People have been arrested and detained without trial for exercising their freedom of expression. Publications have been banned as governments have considered them threats to "national security." The abuse of defamation laws has also jeopardized freedom of expression, as a tactic to deter criticisms from opposition or media against the ruling party or businessman. Some examples follow.

3. MALAYSIA: In Malaysia, the Internal Security Act (ISA) has been consistently used against people who criticise the government and defend human rights. The ISA provides for "preventative detention" without trial for an indefinite period. It is a convenient tool for the government to suppress freedom of expression. In 2001 the number of people detained under the ISA for their political and religious beliefs went from four to 25, and hundreds were arrested in connection with peaceful assemblies. In April, ten key leaders from Parti Keadilan Nasional (PKN, i.e. National Justice Party), the reform movement and human rights group Suaram, were detained without trial for allegedly attempting to overthrow the government through "street demonstrations and militant means". Six have been sent to the Kamunting Detention Camp on a two-year detention order; two were freed unconditionally, while the remaining two were freed under conditions. Furthermore, the Printing Presses and Publications Act 1984 requires an annual renewable license for any regular publication to be lawful. It was further amended in December 1987 to increase the government's power to ban or restrict publications and to prohibit court challenges to its actions.

4. The Malaysian Bar Council said in March 2001 that defamation claims and payouts there are the highest among the 54 countries in the Commonwealth. It cited, as an example, the case of a businessman who in February claimed damages totaling 1.3 billion ringgit (US$330,000) from various Malaysian newspapers for alleged defamation. In a ruling that alarmed many lawyers, in the same month the High Court told a private television station to pay a businessman 100 million ringgit for damaging his reputation by airing footage of him in police handcuffs.

5. SINGAPORE: Like Malaysia, the ISA in Singapore allows detention without trial and has often been used by the government to suppress political dissent or criticism. In addition, on 19 April 2001 a bill was passed to amend Section 42 of the 1994 Broadcasting Authority Act, permitting the authorities to declare that any foreign broadcasting service is "engaging in the domestic politics of Singapore" and therefore requires prior approval from a Minister for domestic transmission. The new regulations allow arbitrary suspension and banning of local retransmission of foreign broadcasts. Fines of up to Singapore $100,000 (US$55,000) may be levied on those found guilty.

6. Ruling party politicians in Singapore also often bring defamation charges against opposition leaders and demand huge compensation payments. JB Jeyaretnam, leader of the opposition Workers' Party, is one of only three opposition members in the Singapore Parliament. He was declared bankrupt by in January 2001 as a result of fines in defamation proceedings brought by the President. Under Singapore law, Jeyaretnam will be barred from running for office having been declared bankrupt after failing to pay scheduled

damages awarded to political opponents who had sued him for defamation.

7. KOREA: In the Republic of Korea, the National Security Law remains the biggest threat to freedom of expression, despite the fact that Kim Dae-jung, a former dissident and winner of the 2000 Nobel Peace Prize, became president in 1998. This law has limited the free expression of activists, journalists and artists who have presented no serious threat to national security. For example, Lee Chang-gi, Park Joon-young and Baek Oon-jong, chief editor and journalists respectively for the Jajuminibo magazine, were arrested on the 23 October and detained by the South Korean secret service. They were accused of violating the national security law by 'praising' North Korea in articles and interviews. Historically, many political leaders as well as students who had challenged the government were imprisoned under this law. Recently, as the labor movement grew stronger, and it has become practice to apply the law to union leaders.

8. PAKISTAN: Freedom of expression is also suppressed in the name of blasphemy. In Pakistan, the blasphemy law has been widely used to harass journalists and religious minorities who speak out their problems. In late January 2001, seven journalists working for the English-language daily *The Frontier Post* were arrested in the north-western town of Peshawar and charged under the nation's blasphemy law, which can carry the death sentence. The paper had published a reader's letter that was deemed to be blasphemous.

9. MYANMAR: Media workers in Asia are constantly subjected to political imprisonment and torture. A recent Reporters Without Borders report indicates that in Myanmar journalists have received long prison sentences for having "distributed information hostile to the state", owning undeclared video cameras, talking with foreign journalists or sending information to Burmese media in exile. 18 journalists are still imprisoned and many of them are in life-threatening conditions, as torture is commonplace in prisons there and some journalists suffer from serious mental disorders resulting from long periods of isolation.

10. Accordingly, the Asian Legal Resource Centre calls upon the Commission and all its conventional and extra-conventional mechanisms to work towards:

- The release of all those currently held under national security laws for the peaceful exercise of their right to freedom of expression;

- The reform of national security laws to conform with international human rights standards;

- The revision of defamation laws to ensure they are not used as tools of harassment and intimidation; and,

- The prompt and thorough investigation of any attacks or threats against media outlets, journalists, opposition politicians and supporters, to bring the perpetrators to justice.